

Written evidence submitted by the Tenant Farmers Association (FFS0003)

House of Commons Environment, Food and Rural Affairs Committee

Inquiry Into Fairness in the Food Supply Chain

The Groceries Code Adjudicator and the Groceries Supply Code of Practice

Written Submission from the Tenant Farmers Association

1. Introduction

- 1.1 The Tenant Farmers Association (TFA) is the only organisation dedicated to representing the interests of farmers and farm businesses who do not own the land they use for agriculture in England and Wales. TFA membership comprises farms of all types and sizes but active, family farms predominate. The core membership of the TFA are farmers occupying land under tenancies regulated by both the Agricultural Holdings Act 1986 (AHA) and Agricultural Tenancies Act 1995 (ATA). Some of our members will have direct contracts with retailers but most will deal through processors or collectors within the retail food chain.
- 1.2 The TFA welcomes the Inquiry being undertaken by the Committee into fairness in the food supply chain including the operation of the Groceries Code Adjudicator (GCA) and the Groceries Supply Code of Practice (GSCoP). Consistently low returns and unfair contract clauses sap entrepreneurial energy and long-term planning. Primary producers are driven towards making decisions based on short-term horizons looking to produce, as far as possible, at least cost factoring in only direct returns which they can obtain from the marketplace. That leads to a greater than a healthy degree of reliance upon public funding which, hitherto, has been provided to many producers through the Basic Payment Scheme which is now giving way to schemes being developed under the banner of Environmental Land Management within which participation will also bring further costs as well as benefit. Sadly, the marketplace within the UK fails to take a systematic approach to the multifunctional characteristics of land without adequate thought to issues such as environmental management, landscape creation and maintenance, protecting clean air and clean water and good soil management. Some retailer and processor schemes are beginning to look more deeply at these wider issues, but such arrangements are still very much in their infancy and those which do exist rarely provide primary producers with sufficient return to make the inevitable investments make financial sense.
- 1.3 The overarching view of the TFA is that the GCA is essential in working to ensure fairness within retail supply chains and its role should be retained and strengthened so that it can encompass relationships further up the supply chain including those identified between farmers, collectors and processors within the Agriculture Act 2020 which has led to the establishment of Agricultural Supply Chain Adjudicators.

2. The Effectiveness of the Groceries Code Adjudicator to Enforce the Groceries Supply Code of Practice

- 2.1 The GCA has had a positive impact on the groceries market by ensuring that there is a greater focus on the principles of fair trading. The 14 retailers within the scope of the GCA appear to be more aware than ever of the need to ensure that they are not using their dominant position within supply chains to engage in inappropriate practices. The TFA believes that if the office of the GCA was for whatever reason abandoned, there would be a resurgence in unfair practices which would fall most heavily on primary producers and would be to the detriment of consumers and farmers and growers alike in the long term. However, the extent of the influence of the GCA could be improved given that it is limited by its current legislative powers both in terms of the scope of its remit and its ways of working.
- 2.2 Whilst the GCA has been active in providing advice and guidance to retailers and others on GSCoP compliance issues, which has generally been effective in promoting the concept of fair trading within the direct supply chains, the TFA believes that the GCA would be more effective if it had powers of inspection of retailers on specific issues at no, or short notice which were not specifically related to complaints. For example, the GCA may have concerns about the extent to which retailers are compliant with a specific aspect of the GSCoP and as a result, conduct a quick inquiry or investigation requiring all retailers to provide evidence of how they are complying with that aspect of the GSCoP.
- 2.3 To that end, the GCA must have the power to initiate own initiative investigations. Currently the GCA is only able to act on complaints. In the same way that OFSTED has the powers to investigate the performance of schools on its own initiative and with very short notice, the same powers should be provided to the GCA to be able to investigate GSCoP compliance amongst retailers. The new powers must provide the GCA with the ability to look at individual or specific issues of GSCoP compliance and require retailers to provide evidence, when inspected on these specific areas, which demonstrates their GSCoP compliance.

3. The Potential Merits and Demerits of Expanding the Scope of The Groceries Supply Code of Practice

- 3.1 The GCA could be more effective in enforcing the GSCoP if it was able to consider issues throughout the supply chain. There is a well-developed recognition that the food supply chain in the UK can be dysfunctional and needs to be addressed in its entirety. This was highlighted within the Henry Dimbleby Food Strategy Report prepared for the last Government. When the food supply chain does become dysfunctional, all too often it is the farming community which bears the brunt of the problems that this produces. This is in part why DEFRA secured the powers it did within the Agriculture Act 2020. Sadly, however, until recently with the appointment of the Dairy Agricultural Supply Chain Adjudicator and the promise of further appointments, we have not seen these powers used effectively and the TFA would call for joined up Government as between DEFRA and the Department of Business and Trade to see these powers used through the auspices of the GCA. Whilst DEFRA has clearly identified market failures in the upstream end of the supply chain, it

would appear that this analysis is yet to be accepted by the Department for Business and Trade. The TFA would suggest that DEFRA is much closer to the issues in play and that the Department for Business and Trade needs to accept the DEFRA analysis and act accordingly to review the remit of the GCA.

- 3.2 Whilst the TFA would be very cautious about having hard market interventions such as price controls which, could have unintended consequences, the Government should be looking to intervene where there is market failure. One of the issues around market failure is lack of clear information around pricing and returns. To that end, it would be beneficial for there to be a greater degree of scrutiny of returns within the sector at various levels and for information to be published about the level of returns to the various players within the supply chain – retailers, processors, collectors and primary producers. The TFA believes that this is a function that the GCA could usefully be given to fulfil.

4. Scope For Collaboration Between the Agricultural Supply Chain Adjudicator and Groceries Code Adjudicator

- 4.1 The TFA has expressed its scepticism around the appointment of the new Agricultural Supply Chain Adjudicators given that they were born out of the inability of the government to take a joined-up approach to the regulation of retail groceries markets. DEFRA (under its previous Secretary of State George Eustice) was clearly of the view that deeper and more proactive regulation of the supply chain was necessary and that the GCA was the best conduit through which to bring forward that more robust framework. However, at the time, the parent Department of the GCA, the Department for Business Energy and Industrial Strategy (now The Department of Business and Trade) held out against any widening or deepening of the powers of the GCA leaving DEFRA having to enact its own supply chain provisions within the Agricultural Act 2020. However, the measures being introduced are piecemeal and complicated with no clear guarantee of success. It would have been wholly better to have either created a GCA style body for the whole of the upstream architecture of the supply chain or, better, extend the remit of the GCA. However, for as much as this approach persists, it will be essential that there is ongoing, strong and effective liaison between the GCA and the Agricultural Supply Chain Adjudicators, so that, as far as possible, a farm to fork approach is delivered.

15 January 2025